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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,492	03/15/2004	Daniel Perlman	PRLMN-003XX	9279
207	7590	07/12/2006	EXAMINER	
WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP TEN POST OFFICE SQUARE BOSTON, MA 02109			OGDEN JR, NECHOLUS	
			ART UNIT	PAPER NUMBER
			1751	

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/800,492

Applicant(s)

PERLMAN, DANIEL

Examiner

Necholus Ogden

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 27-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4-27-2006 has been entered.

Response to Amendment

Claims 1-32 are pending.

Claims 1-26 are rejected and claims 27-32 are withdrawn from consideration as drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-2, 5-7, 9-26 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Elepano et al (4,508,634).

Elapano et al disclose an aqueous dried paint skin cleansing composition comprising propylene carbonate in an amount from 10-50% by weight; 1-30% by weight of solvents such as polyethylene glycols and esters of aliphatic dibasic acids having 2-22 carbon atoms (col. 2, lines 15-68); thickening agents such as cellulose ethers or hydroxyethyl cellulose or silica (col. 4, lines 51-64); additives such as methyl paraben and/or propyl paraben and water in an amount from 10-50% by weight. Elapano et al

further teach that said paint removing skin-cleansing composition may be used in a scrubbing device (see col. 6, lines 15-23 and co. 7, lines 9-22). Note, see Tale 1.

As this reference teaches all of the instantly required it is considered anticipatory.

In the alternative, Elapano et al is silent with respect to the pH of the composition.

It would have been inherent to the compositions of Elapano et al to comprise a composition within the pH limitations of the claimed invention, because Elapano et al teach each of the preferred components within their requisite proportions for the purpose of removing paint from the skin and one skilled in the art would expect similar characteristic.

7. Claims 1-7, 9-14, 19-20 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Wilkins et al (5,215,675).

Wilkins et al disclose an aqueous stripping composition comprising 1-50% by weight of water; and 25-95% by weight of ethylene carbonate (col. 2, lines 1-12). Wilkins et al further teach the inclusion of 0.01 to 10% of a chelating agent such as EDTA; solvents such as propylene glycol and tripropylene glycol methyl ethers (col. 3, lines 39-63); and thickeners such as hydroxypropyl cellulose; ethyl hydroxyethyl cellulose and silica (col. 4, lines 25-41). With respect to the pH, Wilkins et al teach that said pH is in the range of 3-4.5 (col. 4, line 10-12). Note, see Table 1.

As this reference teaches all of the instantly required it is considered anticipatory.

In the alternative, if the above listed claims are not anticipatory they would have nonetheless been obvious to one of ordinary skill in the art because, absent a showing

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to the contrary, Wilkins et al teach each of the components in their requisite proportions for the purpose of removing paint from a surface.

8. Claims 1-3, 5-7, 9, 11-20 and 22-26 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Stevens (5,098,591).

Stevens disclose a paint stripping composition comprising 10-60% by weight of a low boiling VOC such as N-methyl pyrrolidone; 15-5% by weight of a solvent; 5-60% by weight of solvent such as ethylene carbonate, propylene carbonate or mixtures thereof ; 0 to 45% by weight of water and a thickening agent (col. 3, lines 39-65). Stevens specifically teach that said compositions have a pH of about 2 to 11 (col. 8, lines 54-57); and said solvents include acetone, ethanol, propylene glycol and tripropylene glycol methyl ether (col. 10, lines 8-30). With respect to the thickener, Stevens suggest that hydroxypropyl cellulose, methylcellulose and ethyl cellulose ethers may be employed (col. 10, lines 55-68). Stevens further teach that said composition may be used with a brush or adsorbed onto a fabric (col. 12, lines 36-60). Note, see example 20.

As this reference teaches all of the instantly required it is considered anticipatory.

In the alternative, if the above listed claims are not anticipatory they would have nonetheless been obvious to one of ordinary skill in the art because, absent a showing to the contrary, Stevens teaches each of the components in their requisite proportions for the purpose of removing paint from a surface.

1. Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marquis et al (6,586,380) in view of Stevens (5,098,591).

Marquis et al disclose a paint removing composition comprising 10 to 90% by weight of an alkylene carbonate; 10-90% by weight of an alcohol and 0.1 to 25% by weight of water (col. 3, lines 50-59). Marquis et al include additional component such as glycol ethers, cellulose thickeners, chelating agents such as EDTA and propylene glycols (col. 4, lines 5-55). Marquis et al further include dicarboxylic acids such as succinic and additional alcohols such as acetone (col. 5, lines 7-63). Moreover, Marquis teach that said composition may be applied by brushing (col. 6, lines 20-41).

Marquis et al disclose all of the instantly required, however, Marquis et al is silent with respect to the pH of the composition.

Stevens is relied upon as set forth above. Specifically, Stevens discloses a pH of 2-11.

It would have been obvious to one ordinary skill in the art to include a pH within the range of 2-6 as claimed because Stevens suggest said range for paint stripping composition and further teaches that surprising results have been obtained by having a pH within the range of 5.5-8 (col. 8, lines 54-66).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Necholas Ogden whose telephone number is 571-272-1322. The examiner can normally be reached on M-T, Th-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Nicholas Ogden
Primary Examiner
Art Unit 1751

No
7-10-06